



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
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March 19, 2021

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BY ECF

The Honorable Mary Kay Vyskocil
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl St.
New York, NY 10007

Re: United States v. Palmer, 20 Cr. 379 (MKV)

Dear Judge Vyskocil:

The Government respectfully submits this letter to request a brief adjournment of the trial date to permit the undersigned to handle the trial in this matter. The defense opposes this request.

At the most recent pretrial conference, on February 3, 2021, the parties discussed trial scheduling with the Court and, in light of the parties' trial schedules at the time—which included the undersigned's trial in United States v. Chandler, 19 Cr. 867 (PAC), scheduled for May 17, 2021—the Court scheduled a tentative trial date of June 14, 2021, with a backup date in July. The Court excluded time under the Speedy Trial Act, 18 U.S.C. § 3161, until June 14. (Doc. No. 44.)

On March 2, 2021, the Court issued a scheduling order alerting the parties that the jury committee had scheduled the trial in this matter to begin on May 19, 2021. (Doc. No 51.) Around the same time, the undersigned learned that the Chandler trial had been moved up to May 12, 2021, but was the backup trial on that date. In light of uncertainty as to whether the Chandler trial would go forward, the Government awaited further guidance. Yesterday, Judge Crotty's chambers advised the Government that the trial ahead of Chandler on May 12 had been adjourned and that the Chandler trial would therefore commence on that date.

The Government expects the trials in this case and Chandler to both go forward. The undersigned has handled both cases from inception and is the sole assigned Assistant United States Attorney on both cases. Accordingly, the Government respectfully requests a brief adjournment of the trial date in this matter—to a date¹ acceptable to the Court and the defense in summer

¹ The undersigned now has other trials scheduled to begin on June 7, 2021 (approximately one week) and September 13, 2021 (approximately one week), but is available for trial from late June

2021—so the undersigned can handle the trial. To be clear, the Government would be ready for a May 19 trial. In light of the May 12 Chandler trial, however, a May 19 trial would necessitate reassignment of this case to a new Assistant United States Attorney. The Speedy Trial Act and the courts have recognized that continuity of Government counsel is an appropriate reason to briefly adjourn a trial date. See 18 U.S.C. § 3161(h)(7)(B)(iv); United States v. Jones, No. 18-42-CR, 2021 WL 727837, at *2 (2d Cir. Feb. 25, 2021) (“Here, the district court considered the unavailability of the prosecutor when granting the continuance, as it was entitled to do under the Speedy Trial Act.”).

In the event the Court grants this application, the Government respectfully requests that time be excluded under the Speedy Trial Act, 18 U.S.C. § 3161(h), because the purpose of the adjournment would be to permit continuity of counsel by the Government, which is in the interest of justice.

Respectfully submitted,

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by: /s/ Jun Xiang
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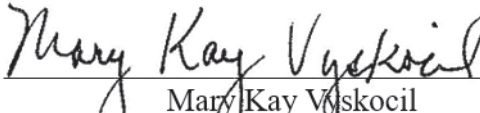
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John Meringolo, Esq. (By ECF)

The Government's request to adjourn the trial in this matter scheduled for May 19, 2021, is DENIED. The parties are well aware of the constraints on trial scheduling due to the COVID-19 pandemic, as discussed at the status conference on February 3, 2021. The May 19 trial date was assigned by the Clerk's Office as a firm trial date, as explained in the Trial Scheduling Order dated March 2, 2021 [ECF No. 51]. When the *Chandler* trial moved from a backup to a firm trial date, counsel for the Government had a conflict by reason of this previously scheduled trial, which may provide a basis for him to seek to adjourn the *Chandler* trial.

Trial in this matter is scheduled for May 19, 2021. The pretrial conference scheduled for April 19, 2021, at 10:00 AM will proceed as scheduled.

SO ORDERED.

Date: 3/19/2021
New York, New York


Mary Kay Vyskocil
United States District Judge

through mid-August. At the time of the prior conference, the June 7 trial had been scheduled for June 28, which is why the parties had proposed June 14 as a possibility.